

From: [Jeremy Johnston](#)
To: ["Theresa Dougherty"](#)
Cc: [Kelly Bacon \(CD\)](#); [Dan Carlson](#)
Subject: RE: Hidden Point; Public Comment Extension Request
Date: Wednesday, December 30, 2020 11:57:49 AM
Attachments: [Virtual Public Hearing Instructions.pdf](#)

Hello Mrs. Dougherty,

While the Hearings Examiner does limit verbal comments to about 3 minutes, he does accept written comments or exhibits at these hearings for those that wish to supplement their verbal comments or those that cannot attend. KCC 15A.05.020(3) allows "testimony or comments" from the public at the hearing. Nothing in this section limits this to verbal submittals.

Due to the high likelihood that this will be a virtual public hearing, the project planner will accept public comments/ exhibits to be submitted at the hearing. We will begin accepting these once the Notice of Public Hearing is issued. I have attached our Hearings Instruction document which notes this in the "Entering Exhibits into the Record" section. This document is included in our Public Hearings Notice. It is possible that the Hearings Examiner may leave the record open to allow the applicant a chance to respond to new evidence submitted at the hearing, but that would be at his discretion.

This hearing will not be held in January. The bulk of our code compliance review occurs after the public comment period and this usually takes months. Following the comment period we transmit the comments received to the applicant and provide an opportunity for response. Staff will then review the comments and responses and begin the process of reviewing the project for SEPA compliance and drafting a staff report. The next step is usually a SEPA determination, which will be followed by a SEPA appeal period and then the public hearing. This is the general process however there are variables that can extend the review period beyond the 4-6 month timeline. The earliest this hearing will take place will be somewhere between March and May.

Let me know if I missed something.

Jeremy Johnston, MURP

Kittitas County CDS, Planning Official

(509) 962-7065

jeremy.johnston@co.kittitas.wa.us



"Building Partnerships-Building Communities"

Please Note: In an effort to mitigate the spread of COVID-19 and the Governor's "Safe Start" reopening plan, Kittitas County Community Development Services is currently in Phase 3 and is open to the public in a limited capacity. At this time many of us are on a rotating schedule working from home and in the office; during this time I will do my

best to respond to you as promptly as possible.

From: Theresa Dougherty <theresa.k.dougherty@gmail.com>
Sent: Wednesday, December 30, 2020 10:56 AM
To: Jeremy Johnston <jeremy.johnston@co.kittitas.wa.us>
Cc: Kelly Bacon (CD) <kelly.bacon.cd@co.kittitas.wa.us>; Dan Carlson <dan.carlson@co.kittitas.wa.us>
Subject: Re: Hidden Point; Public Comment Extension Request

Good morning, Mr. Johnston -

Thank you for your response. The community remains very concerned about the proposed resort. That concern is heightened by not having access to relevant information that is in the possession of the County prior to the close of the public comment period (e.g., the public records request). **The concern is further heightened by constraints resulting from holiday and pandemic staffing shortages at relevant state agencies who may not be able to respond before January 4. As a result of these factors,** it appears the public is being required to provide comments based on incomplete information. I am hopeful this is merely a misunderstanding regarding the process.

Your letter states “this comment period is not the only opportunity for public comment,” which appears to contradict KCC 15A.03.060(2)(h) (“Kittitas County will accept public comments at any time *prior* to the closing of the public comment period of the specific application.”) (italics added). Please clarify other opportunities for public comment referenced in your letter. It is my understanding that the only other opportunity for a member of the public to comment will be a 3-minute window to speak at the public hearing. If a person is unable to attend the public hearing, or has information beyond 3 minutes in scope, is there a mechanism to present their comments after January 4, 2021? For example, will a member of the public be able to submit documentation for consideration after January 4, 2021?

Since the County will not be including them in the CUP application file, it is my intention to provide the hearing examiner with copies of the prior community complaints, which are highly probative to how the applicant has used the land thus far and forecasts how the applicant will likely use the land (and mistreat neighboring lands) in the future. See KCC 1.10.021 (admitting evidence with probative value); KCC 17.60A.015 (CUP application review criteria). Notably, the scope of the public records request is broader than just code complaints, so there will likely be **other** relevant information **as well. However, as you know, the County will not release those documents until January 22, well after the close of the public comment period.** Is it the County’s representation that I will be allowed to provide this information after the close of the public comment period on January 4, 2021?

Lastly, your letter states that the public hearing will likely occur 4-6 months after the application

date. I was previously told by a County representative that the hearing could be as soon as 14 days after the close of the public comment period, which would be January 19, 2021, and which is prior to the date the County will provide a response to my public records request. Please clarify the process following the closure of the public comment period and provide assurance that the hearing will not occur before the County responds to my public records request.

Continuing thanks,

Theresa

Theresa Dougherty

Attorney at Law
1272 Emerick Rd.
Cle Elum, WA 98922
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206.617.5319

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On Wed, Dec 30, 2020 at 8:53 AM Jeremy Johnston <jeremy.johnston@co.kittitas.wa.us> wrote:

Good Morning,

Thank you for your letter. I apologize on the delay in our response, it has been quite busy around here. As you noted in your letter Kittitas County Code 15A.03.060(2)(f) outlines specific timeline for public comment periods. Generally when these comment periods coincide with major holidays we add extra days to compensate and ensure a reasonable opportunity for public comment. In this case we added 3 days to compensate for Christmas Eve, Christmas and New Years. This is the same standard in which we process all Conditional Use applications. Outside of these instances, it would be unfair to the applicant to hold them to a different standard than other Conditional Use applicants. As such, we will not be extending the formal comment period for this application.

That being said, this comment period is not the only opportunity for public comment. Any interested party can attend the open record public hearing (yet to be scheduled) and provide information and evidence to the Hearings Examiner prior to his determination. Based off of your letter it sounds like you were given a date of January 22, 2021 for your public information request to be fulfilled. This will be well before the public hearing is noticed for this application, as these applications tend to run 4-6 months from the submittal date (in this case November 20, 2020) before a hearing is scheduled.

In reference to your inquiry about the inclusion of code enforcement complaints in the application

record, we have put a request into our legal counsel to verify that our previous practice of not including these in the record is appropriate. We will follow their recommendation once we receive it. Historically we have never included this type of information unless submitted by a third party during the public comment period or during the open record public hearing.

I am happy to keep you up to date once we receive a response from our legal counsel and I will ensure you receive all noticing documents moving forward.

Best Regards,

Jeremy Johnston, MURP

Kittitas County CDS, Planning Official

(509) 962-7065

jeremy.johnston@co.kittitas.wa.us



"Building Partnerships-Building Communities"

Please Note: In an effort to mitigate the spread of COVID-19 and the Governor's "Safe Start" reopening plan, Kittitas County Community Development Services is currently in Phase 3 and is open to the public in a limited capacity. At this time many of us are on a rotating schedule working from home and in the office; during this time I will do my best to respond to you as promptly as possible.

From: Theresa Dougherty <theresa.k.dougherty@gmail.com>

Sent: Tuesday, December 29, 2020 5:14 PM

To: Kelly Bacon (CD) <kelly.bacon.cd@co.kittitas.wa.us>

Cc: Dan Carlson <dan.carlson@co.kittitas.wa.us>; Jeremy Johnston <jeremy.johnston@co.kittitas.wa.us>

Subject: Re: Hidden Point; Public Comment Extension Request

Hello all -

I hope you had a wonderful holiday weekend! I am following-up on my prior request for an extension.

Kind regards,

Theresa

Theresa Dougherty

Attorney at Law
1272 Emerick Rd.
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On Wed, Dec 23, 2020 at 4:30 PM Kelly Bacon (CD) <kelly.bacon.cd@co.kittitas.wa.us> wrote:

Good afternoon Theresa,

We have received your request. I have forwarded the request to the Planning Official as well, Jeremy Johnston.

Thank you,

Kelly Bacon

Planner I

Kittitas County Community Development Services

411 N. Ruby Street, Ste 2
Ellensburg, WA 98926
Office: (509) 962-7539
kelly.bacon.cd@co.kittitas.wa.us

Please Note: In an effort to mitigate the spread of COVID-19 and the Governor's "Safe Start" reopening plan, Kittitas County Community Development Services is currently in Phase 3 and is open to the public in a limited capacity. At this time many of us are on a rotating schedule working from home and in the office; during this time I will do my best to respond to you as promptly as possible.

From: Theresa Dougherty <theresa.k.dougherty@gmail.com>

Sent: Wednesday, December 23, 2020 3:53 PM

To: Dan Carlson <dan.carlson@co.kittitas.wa.us>; Kelly Bacon (CD) <kelly.bacon.cd@co.kittitas.wa.us>

Subject: Hidden Point; Public Comment Extension Request

Dear Mr. Carlson and Ms. Bacon,

Please see attached request to extend the deadline for public comments regarding the Conditional Use Permit application CU-20-00005 Hidden Point. Please include this letter in the CUP file.

I appreciate your consideration.

Kindest regards,

Theresa Dougherty

Theresa Dougherty

Attorney at Law
1272 Emerick Rd.
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206.617.5319

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